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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,730	04/13/2000	Karim M. T. Lefki	PHN-17.383	7170

7590 05/21/2002

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EXAMINER

FARAH, AHMED M

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 05/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/548,730

Applicant(s)

Lefki et al.

Examiner

A. Farah

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 20, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14/16 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14/16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other:  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Zavislan et al. US. Pat. No. 5,653,706 in view of Asah et al. US. Pat. No. 6,074,382.

Zavislan discloses hair removing system with electronic visualization of the area being treated. As described by the applicant, Zavislan's device, which is designed for use by a professional individual, comprises:

- a) laser source 20, which provides a laser beam that is well absorbed by the tissue being treated,
- b) handpiece **10**, which delivers treatment and illumination/visualization light to the treatment area **16**,
- c) image sensor, which provides a visual image of the treatment area (see Col. 4, lines 11-15), and
- d) control member by means of which the user can operate, manipulate, or guide the laser beam over the treatment area (see Fig. 8 and Col. 6, lines 25-30).

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However, Zavislan does not teach that his system is electronically controlled by the imaging system (in a manner similar to the instant claims), so as to enable untrained individual or a patient to use the system.

Asah teaches an alternative hair removal system comprising a light emitter for emission of the treatment light (Col. 3, lines 58-60); a detector for detecting at least one tissue parameter at the target site (Col. 3, lines 25-33); and a controller for controlling at least one parameter of the treatment light (the abstract and Col. 4, lines 27-63). He further states that "without control of tissue treatment, removal of hair is a difficult task to perform" as large number of hair follicles have to be pinpointed by the operator (see Col. 8, lines 6-20). Due to this difficulty, Asah <sup>(see claim 4; Col. 5, lines 45-48)</sup> automates his system so that the imaging system determines the position of hair follicles from information contained in the image received from area being treated and in turn controls the irradiation of the treatment light based on said information. It is clear from the above statement that Asah addresses the very deficiency in which the applicant claims to solve. Thus, it would have been obvious to one having the ordinary skill in the art at the time of the applicant's invention to modify Zavislan in view of Asah to automate the hair removal device, as claimed and also as suggested by Asah, in order to reduce the treatment duration that is needed for the removal of all hair.

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***Response to Arguments***

3. Applicant's arguments filed Feb. 20, 2002 have been fully considered but they are not persuasive. The applicant argues that:

A) that the Examiner has failed to point the specific columns and lines in which the claim limitations are shown. With regard to this argument, the examiner has revised the Office Action (OA) and thereby indicates the specific columns and lines in which the claim limitations are addressed.

B) the Examiner has failed to indicate where in Zavislan the features of the present claims are shown. In response to this argument, page 1, lines 6-26 of the applicant's specification clearly admit and describe the similarity between Zavislan and the limitations of the instant claims.

Moreover, in the last paragraph of the same page, the applicant describes the alleged deficiency of Zavislan's invention followed by the improvements made to Zavislan. As understood by the Examiner, and as also clear in the instant claims, the advantages of instant claims over Zavislan is centered in automating the treatment system. Thus, it the purpose of this OA, and any prior OA thereby, to describe the obviousness for automating Zavislan's system in view of Asah.

C) Asah discloses the use of a detector, which detects the values of tissue parameters, but fails to disclose or suggest the use of image sensor and therefore can not treat the deficiency of Zavislan, i.e., lack of automation. In response to this argument, Zavislan teaches the use of image sensor for detecting an image of at least a portion of the skin *as claimed*. However, although he

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suggests automating the system (Col. 2, lines 19-23), the output of his image sensor is only used by the operator. Thus, since Asah detects tissue parameters in the treatment area, and in turn automates his system as a result of the detected parameters, it would have been obvious to one skilled in the art to modify Zavislan in view of Asah.

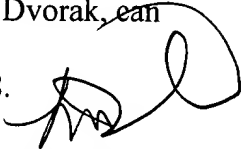
***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Farah whose telephone number is (703) 305-5787. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Linda Dvorak, can be reached on (703) 308-0994. The fax number for the Examiner is (703)746-3368.

*AF*  
*Farah*  
*05/18/02*

  
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SUPERVISORY PATENT EXAMINER  
GROUP 3700